

EFiled: Aug 15 2007 4:03 PM EDT
Transaction ID 15963630
Case No. 07C-06-026 ESB



IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF DELAWARE

AARON MATTHEW MITCHELL,

Plaintiff,

v.

ST. PAUL FIRE AND CASUALTY
INSURANCE COMPANY,

Defendant.

CIVIL ACTION No.

07 - 509

2007 AUG 20 PM 3:52

FILED
CLERK U.S. DISTRICT COURT
DISTRICT OF DELAWARE

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR SUSSEX COUNTY

AARON MATTHEW MITCHELL,

Plaintiff,

v.

ST. PAUL FIRE AND CASUALTY
INSURANCE COMPANY,

Defendant.

C.A. No. 07C-06-026 ESB

NOTICE OF REMOVAL

TO THE HONORABLE JUDGES OF THE UNITED STATES DISTRICT
COURT FOR THE DISTRICT OF THE STATE OF DELAWARE:

Defendant, St. Paul Fire & Casualty Insurance Company, by and through its attorneys,
Marshall, Dennehey, Warner, Coleman and Goggin, hereby removes the above-captioned case to
this Honorable Court and provides notice of same to Plaintiff. In support of the removal, Defendant
aver as follows:

1. On or about June 25, 2007, Plaintiff's Complaint in the above-captioned matter was filed in the Superior Court of the State of Delaware, Sussex County. A copy of the Complaint herein is attached hereto and marked as Exhibit "A".

2. In Paragraph No. 1 of Plaintiff's Complaint (Exhibit "A"), Plaintiff set forth that he is a resident of the State of Delaware.

3. Defendant, St. Paul Fire & Casualty Insurance Company is an insurance company and resident of the State of Minnesota, with its headquarters at 385 Washington Street, St. Paul, Minnesota.

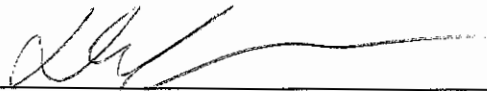
4. The damages allegedly sustained by the Plaintiff are in excess of \$75,000.

5. The above-described civil action is one in which this Honorable Court has original jurisdiction pursuant to Title 28 United States Code §1332 based upon the fact that there exists diversity of citizenship between the parties and the amount in controversy is in excess of \$75,000 and is accordingly one which may be removed to this Honorable Court by Notice pursuant to Title 28 United States Code §1441.

WHEREFORE, the Defendants pray that the above action now pending in the Superior Court of Delaware in Sussex County be removed to this Court.

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN**

Date: August 6, 2007


DANIEL A. GRIFFITH, ESQUIRE (No. 4209)
1220 North Market Street, 5th Floor
P.O. Box 8888
Wilmington, DE 19899-8888
(302) 552-4300
Email: dagriffith@mdwceg.com
Attorney for Defendant

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EXHIBIT "A"

JUN/25/2006/SUN 03:08 PM H CLAY DAVIS III

FAX No. 302 856 1556

P. 002

EFiled: Jun 25 2007 3:45 PM
Transaction ID 15349380
Case No. 07C-06-026 ESB



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR SUSSEX COUNTY

AARON MATTHEW MITCHELL,

Plaintiff

v.

ST. PAUL FIRE AND CASUALTY INSURANCE
COMPANY,

Defendant

Civil Action No. _____

NON ARBITRATION CASE

COMPLAINT
A JURY OF 6 DEMANDED

1. Plaintiff is a Resident of the State of Delaware.
2. Defendant is an insurance company doing business in the State of Delaware.
3. The Plaintiff was injured in a motorcycle accident on 9 August 2006, by the negligence of Alexander Travers.
4. Mr. Travers' liability insurer, paid its policy limits in return for a release on 27 February 2007. See Exhibit A.
5. Defendant's underinsured vehicle coverage is greater than Mr. Traver's liability limits. See Exhibit B.
6. Plaintiff's damages exceed the amount received from Peninsula Insurance Company and the combined underinsured vehicle coverages of the Defendants.
7. Plaintiff has incurred a lien for repayment of lost wages and medical expenses of \$ \$45,792.88 to his Worker's Compensation Carrier. See letter to the Carrier, Exhibit C.
8. Plaintiff will incur medical expenses and suffer lost wages because of future treatment.

JUN/25/2006/SUN 03:08 PM H CLAY DAVIS III

FAX No. 302 856 1556

P. 003

WHEREFORE, Plaintiff prays for \$45,792.88, future medical expenses, future lost wages, additional compensation for general damages, and the costs of this suit.

HENRY CLAY DAVIS, III, P.A.

/s/ H. Clay Davis III
H. Clay Davis, III, Esquire
I.D. #40
303 N. Bedford Street
P.O. Box 744
Georgetown, DE 19947
302-856-9021

DATED: 25 June 2007

CERTIFICATE OF SERVICE

I, Daniel A. Griffith, Esquire hereby certify that on the date indicated below two (2) true and correct copies of Notice of Removal were forwarded to the below named addressee by first-class mail:

H. Clay Davis, III, Esquire
Henry Clay Davis, III, P.A.
303 N. Bedford Street
PO Box 744
Georgetown, DE 19947
Attorney for Plaintiff

**MARSHALL, DENNEHEY, WARNER,
COLEMAN & GOGGIN**

Date: August 20, 2007

/s/ Daniel A. Griffith DE ID No. 4209

DANIEL A. GRIFFITH, ESQUIRE (No. 4209)
1220 North Market Street, 5th Floor
P.O. Box 8888
Wilmington, DE 19899-8888
(302) 552-4300
Email: dagriffith@mdwecg.com
Attorney for Defendant

(Rev 07/89)

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I(a) PLAINTIFFS**AARON MATTHEW MITCHELL****DEFENDANTS****ST. PAUL FIRE & CASUALTY INSURANCE COMPANY**

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF Sussex County, DE
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT Ramsey County, Minnesota
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

H. Clay Davis, III, Esquire, Henry Clay Davis, III, P.A., 303 N.
Bedford Street, PO Box 744, Georgetown, DE 19947
302-856-9021

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

ATTORNEYS (IF KNOWN)

Daniel A. Griffith, Esq. 302-552-4317
Marshall, Dennehey, Warner, Coleman & Goggin
1220 N. Market Street, 4th Floor
Wilmington, DE 19899-8888

II. BASIS OF JURISDICTION (PLACE AN X IN ONE BOX ONLY)

- ☐ 1. U.S. Government Plaintiff
☐ 2. U.S. Government Defendant

- ☐ 3. Federal Question
(U.S. Government Not a Party)
☒ 4. Diversity
(Indicates Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES
(FOR DIVERSITY CASES ONLY)

(PLACE AN X IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT)

	PTF	DEF		PTF	DEF
Citizen of This State	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Incorporated or Principal Place of Business in This State	<input type="checkbox"/>	<input type="checkbox"/>
Citizen of Another State	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Incorporated and Principal Place of Business in Another State	<input type="checkbox"/>	<input type="checkbox"/>
Citizen of Subject of a Foreign Country	<input type="checkbox"/>	<input type="checkbox"/>	Foreign Nation	<input type="checkbox"/>	<input type="checkbox"/>

IV. CAUSE OF ACTION

(CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY.)

Title 28 United States Code Section 1332 based upon a diversity of citizenship between the parties.

Title 28 United States Code Section 1441 based upon the amount in controversy is in excess of \$75,000.

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT	TORTS	FORFEITURE / PENALTY	BANKRUPTCY	OTHER STATUTES
<input checked="" type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgement <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recover of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits. <input type="checkbox"/> 160 Stockholder's Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs <input type="checkbox"/> 660 Occupational Safety / Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (402(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS - Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates /etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities / Commodities / Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent, Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing / Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Other			

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY) **SUPERIOR COURT, STATE OF DELAWARE, SUSSEX COUNTY CA No: 07C-06-026 (ESB)**

☐ 1 Original Proceeding ☒ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A UNDER F.R.C.P. 23

CLASS ACTION ☐

DEMAND \$ ☐

Check YES only if demanded in complaint:

JURY DEMAND: ☒ YES ☐ NO

VIII. RELATED CASE(S) (See instructions)

JUDGE

DOCKET NUMBER

IF ANY **N/A**

DATE August 6, 2007

SIGNATURE OF ATTORNEY OF RECORD
Daniel A. Griffith, Esquire

UNITED STATES DISTRICT COURT

AO FORM 85 RECEIPT (REV. 9/04)

United States District Court for the District of Delaware

Civil Action No. 07 - 509

ACKNOWLEDGMENT
OF RECEIPT FOR AO FORM 85

NOTICE OF AVAILABILITY OF A
UNITED STATES MAGISTRATE JUDGE
TO EXERCISE JURISDICTION

I HEREBY ACKNOWLEDGE RECEIPT OF 2 COPIES OF AO FORM 85.

8-20-07
(Date forms issued)

Monty Pollard
(Signature of Party or their Representative)

Monty Pollard
(Printed name of Party or their Representative)

Note: Completed receipt will be filed in the Civil Action